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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,963	05/16/2005	Osvaldo Valente	AP053-05	3635
29689	7590	06/13/2006	EXAMINER	
DAVID A. GUERRA INTERNATION PATENT GROUP, LLC 10TH FLOOR, 610 8TH AVENUE S.W. CALGARY, AB T2P 1G5 CANADA			SOTELO, JESUS D	
		ART UNIT	PAPER NUMBER	
			3617	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/534,963	VALENTE, OSVALDO
	Examiner	Art Unit
	Jesús D. Sotelo	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 36 and 37 is/are allowed.
- 6) Claim(s) 18,20,21,23,24,28-30,32,33 and 35 is/are rejected.
- 7) Claim(s) 19,22,25-27,31 and 34 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 May 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ✓1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ✓3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

1. Claims 18-37 are in the application. Claims 1-17 have been canceled.

In all the dependent claims, the word “fourth” should be changed to --forth--.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18, 20, 23, 24, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duboy (4,467,742) in view of Kaiser (5,346,419).

Duboy discloses an underwater propulsion system for propelling a user through the water including a harness 35 having means to secure the harness to the user; a power supply system having at least one watertight container 44, 45 attachable to the harness and adapted to receive a removable power source 54; at least one motorized water jet 31 removably attachable to the harness and a watertight switch 40 electrically connected to the power source and the water jet.

The system disclosed by Duboy discloses a watertight box 40 for enclosing electrical connections. The container 44, 45 in Duboy are arranged to provide a water tight compartment. To use sealing rings to assure the water-tightness of the compartment would have been an obvious matter of design choice to one skilled in the art. Duboy uses a slide clamping device to secure the harness to the user. The use of double hooks to secure harnesses in life saving devices is well known in the art as taught by Kaiser. In view of these disclosures, it would have been obvious to one having ordinary skill in the art to substitute for the harness

connector of Duboy a harness connector including two hooks, generally as taught by Kaiser.

The type of connector used is an obvious matter of design choice to one skilled in the art.

4. Claims 21, 30, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duboy (4,467,742) in view of Kaiser (5,346,419) as applied to claim 1 above, and further in view of Laughman (3,745,961).

Laughman discloses a system similar to that of Duboy. Laughman teaches providing the battery container with a water tight connecting hole for extending a wire from the battery container to the motor and the switch. In view of these disclosures, it would have been obvious to one having ordinary skill in the art to provide the containers of Duboy with water tight holes for connecting the batteries to the wire 59, generally as taught by Laughman. The manner in which the wires from the battery to the motor are directed would have been an obvious matter of design choice.

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duboy (4,467,742) in view of Kaiser (5,346,419) as applied to claim 1 above, and further in view of Bardoni et al (3,916,814).

Bardoni et al discloses a device similar to that of Duboy and teaches a slightly different control switch which includes a strap wrapped around the back of the hand to secure the switch. In view of these disclosures, it would have been obvious to one having ordinary skill in the art to provide a switch similar to that of Bardoni et al to control the motor in Duboy, generally as taught by Bardoni et al. The type of switch used would have been an obvious matter of design choice.

Allowable Subject Matter

6. Claims s 19, 22, 25-27, 31, 34, and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 36 and 37 are allowed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keogh-Dwyer (2,722,021), Galimand (4,753,187), and Rush (3,422,787) disclose diver assist propulsion devices.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. – Fri. 5:30 AM – 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jesus D. Sotelo
Jesus D. Sotelo
Primary Examiner
Art unit 3617
KNX 03D69 ☺

jds
June 9, 2006